

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Bail Appl..No. 4833 of 2007(K)

[CRIME NO.376/2007 OF CHAVARA POLICE STATION]

PETITIONERS/ACCUSED

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1. KALESH, S/O. SOMARAJAN PILLAI,
KAVILMEL THEKKETHIL, KOVOOR MURI, ARINELLUR,
THEVELAKKARA.
 2. DEEPU MOHAN, S/O. MOHAN,
DEVAGIRI, MADAPPALLY, MUKUNDAPURAM MURI,
CHAVARA VILLAGE.
 3. SANDEEP, S/O. SUDHAKARAN,
VETTIKADU VEEDU, KOLAMMURI, CHAVARA VILLAGE.
 4. RENJITH @ APPUNNI, S/O. CHANDRAMOHAN,
CHAKKALA KIZHAKKETHIL, VATTATHARA,
MUKUNDAPURAM MURI, CHAVARA VILLAGE.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 10/08/2007 ALONG WITH BA NO.4839/2007, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.Nos.4833 of 2007 & 4839 of 2007

Dated this the 10th day of August 2007

O R D E R

These applications for anticipatory bail are by common petitioners, four in number. They apprehend arrest in crime Nos.354/2007 and 376/07, both registered inter alia under Section 380 I.P.C.

2. The crux of the allegations is that materials belonging to the Kerala Minerals and Metals Ltd, a Government Company were illegally removed from the premises of the company and to facilitate such removal, the petitioners acted in collusion with some of the employees of the company. Initially a false allegation was raised by an employee of the Company that he was assaulted by a group of persons. Investigation revealed that such allegation was only a ploy to cover up his role in the illegal removal of articles. In the later crime, nickel pipes belonging to the company which were removed from the company were seized. Investigation has revealed the complicity of the petitioners in both crimes. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent in both crimes. Their names are not shown in the F.I.R at all. The petitioners have reason to believe

that false allegations are being raised against them on account of political rivalries. The petitioners are in no way connected with the alleged thefts which have taken place in the Kerala Minerals and Metals Ltd. It is, in these circumstances, prayed that the petitioners may be granted anticipatory bail. They are willing to abide by any reasonable conditions in the interests of a quick and efficient investigation.

3. The learned Public Prosecutor opposes the applications. The learned Public Prosecutor submits that the allegations are very serious. Materials belonging to a Government Company have been illegally removed in collusion with the employees of the company itself. The matter deserves and calls for serious action. It will be inexpedient to permit the petitioners to arm themselves with an order of anticipatory bail, at this stage. Custodial interrogation is absolutely necessary. Nexus, if any, between the miscreants and the employees of the company who are colluding with them are to be ascertained. Denial of an opportunity for custodial interrogation will effectively and virtually frustrate the proper and efficient investigation in the matter. Considering the nature of allegations, the stage of investigation and the totality of circumstances, anticipatory bail may not be granted to the petitioners, prays the learned Public Prosecutor.

4. I shall carefully avoid any detailed discussion on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that on an anxious evaluation of all the relevant inputs, I am not certainly persuaded to agree that this is a fit case where the extraordinary equitable discretion under Section 438 Cr.P.C deserves to be invoked. The petitioners must resort to the course of appearing before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, these petitions are dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

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PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007